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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/715,753

11/17/2000

Jerry L. Mizell

NORT0080US(12419RRUS01U)

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7590

12/16/2004

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HOUSTON, TX 77024

EXAMINER

NG, CHRISTINE Y

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/715,753	<b>Applicant(s)</b> MIZELL ET AL.	
	<b>Examiner</b> Christine Ng	<b>Art Unit</b> 2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20-27 and 37-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4, 10, 13, 15-18, 20-27 and 37-43 is/are allowed.
- 6) ☒ Claim(s) 1, 5-9, 11, 12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/9/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see page 12, lines 2-9, filed July 19, 2004, with respect to the rejection(s) of claim(s) 1 under 35 USC § 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Publication No. 2001/0033563 to Niemela et al.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2001/0033563 to Niemela et al.

Niemela et al disclose in Figure 2 a method of establishing communications between a base station (BSS 122) and a system controller (SGSN 124) over a Gb network (Gb 100). Refer to Section 0019, 0020 and 0032. The method comprises:

Identifying a plurality of paths (NS-VC 140,142,144,146) in the Gb network (Gb 100), each path (NS-VC 140,142,144,146) defined by an IP address in the base station (BSS 122) and an IP address in the system controller (SGSN 124) , wherein the

Art Unit: 2663

plurality of paths (NS-VC 140,142,144,146) are identified by different combinations of one or more base station IP addresses and one or more system controller IP addresses. Each NS-VC 140,142,144,146 is associated with a BVC 152A,152B,154A,154B which "may be identified by an IP address, such as a source and destination IP address". Refer to Sections 0012, 0033 and 0035.

Selecting one of the plurality of paths (NS-VC 140,142,144,146) in the Gb network (Gb 100) to communicate data associated with a given mobile station. Data transported to a mobile station is given a Link Select Parameter to identify a NS-VC connecting the BSS and SGSN. Refer to Sections 0026 and 0027.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2001/0033563 to Niemela et al in view of U.S. Patent No. 5,487,065 to Acampora et al.

Referring to claim 5, Niemela et al do not disclose that the method comprises selecting another path by sending a message from another source address.

Acampora et al disclose in Figure 4 that selecting another path comprises sending a message from another source address (VCI). The "mobile user initiates the rerouting as the result of its handoff by changing the VCI of its packets". "By sending

packets with VCI's associated to a specific base station, it initiates the rerouting of its connections to that base station". Refer to Column 7, lines 3-36. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include selecting another path by sending a message from another source address, the motivation being that by using this method, the rerouting operation can be performed "without the use of a centralized call processor in a distributed manner" (Column 7, lines 34-35), since the mobile station initiates rerouting.

Referring to claim 14, Niemela et al do not disclose that the method further comprises disabling an address; and sending a change-route request containing the disabled address to change a path for each mobile station assigned a path defined by the disabled address.

Acampora et al disclose in Figure 6 disabling an address (first and third rows of table 114); and sending a change-route request (control message) containing the disabled address (first and third rows of table 114) to change a path (switch from path 120 to 121) for each mobile station assigned a path defined by the disabled address (first and third rows of table 114). The control message tells the switch to enable connection 121 (enable second and fourth rows of table 114) and disable connection 120 (disable first and third rows of table 114). Refer to Column 9, lines 20-33.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the method further comprises disabling an address; and sending a change-route request containing the disabled address to change a path for each mobile station assigned a path defined by the disabled address, the motivation

being that this facilitates rerouting of data packets through the use of a single control message.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2001/0033563 to Niemela et al in view of U.S. Patent No. 5,487,065 to Acampora et al, and in further view of U.S. Patent No. 6,711,143 to Balazinski et al.

Niemela et al and Acampora et al do not disclose the sending the message comprises sending a UNITDATA message.

Balazinski et al disclose that messaging can be performed by using a UNITDATA PDU. Refer to Column 5, lines 53-56. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include that sending the message comprises sending a UNITDATA message; the motivation being that UNITDATA is a standard messaging protocol.

7. Claims 7, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2001/0033563 to Niemela et al in view of U.S. Patent No. 6,469,994 to Ueda et al.

Referring to claim 7, Niemela et al do not disclose that that method further comprises selecting another path by sending a change-route request.

Ueda discloses in Figure 5 selecting another path by sending a change-route request (Step S3). When the packet data transferred from a specific terminal is greater than a threshold, the base station "requests for the packet switching office 30 to set one of the shared channel into the leased mode and to assign it to that terminal" (Column 5, lines 58-63). Then the packet switching office 30 determines whether or not the shared

channel can be set into leased mode. Refer to Column 6, lines 7-10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include that the method comprises selecting another path by sending a change-route request, the motivation being that this allows the system to determine whether or not it has enough resources to allow the mobile terminal to transfer data on another route before the mobile terminal begins transmitting data on the new path.

Referring to claim 9, Niemela et al do not disclose that selecting another path by sending the change-route request is part of an explicit path negotiation.

Ueda discloses in Figure 5 that the change-route request is sent explicitly from the controller of the base station (Element 20) to the packet switching office (Element 30). This allows the packet switching office (Element 30) to determine whether or not one of the shared channels is allowed to be set to leased mode so that the terminal requesting a different path can use the new channel to transmit data. Refer to Column 5, line 58 to Column 6, line 10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include that selecting another path by sending a change-route request is part of an explicit path negotiation, the motivation being that this allows the system to send messages between the components to determine whether or not it has enough resources to allow the mobile terminal to transfer data on another route before the mobile terminal begins transmitting data on the new path.

Referring to claim 11, Niemela et al do not disclose sending the change-route request comprises sending a request containing an identifier of the mobile station.

Ueda discloses in Figure 5 that sending the change-route request comprises sending a request containing an identifier of the mobile station. "To each of packet data transferred from the terminals, a user ID to indicate each property is added" (Column 5, lines 54-55). The base station (Element 20) requests for the packet switching office 30 to set one of the shared channels into the leased mode and to assign it to terminal 10c, the terminal that is requesting a route change. Refer to Column 5, line 58 to Column 6, line 2. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include sending the change-route request comprises sending a request containing an identifier of the mobile station, the motivation being so that the module receiving the change-route request can identify which terminal needs to change routes so that it can assign the channel accordingly.

Referring to claim 12, Niemela et al disclose that the identifier comprises a General Packet Radio Service temporary logical link identifier. Refer to Section 0011.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2001/0033563 to Niemela et al in view of U.S. Patent No. 6,469,994 to Ueda, and in further view of U.S. Patent No. 5,974,036 to Acharya et al.

Niemela et al and Ueda do not disclose that the change-route request comprising sending a GPRS NS-CHANGROUTE request.

Acharya et al do not specifically disclose a GPRS NS-CHANGROUTE request. However, Acharya et al disclose that a base station sends a RT\_CHANGE signal to a first switch to establish a new connection to another switch during handover.



Art Unit: 2663

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include that the change-route request comprises sending a GPRS NS-CHANGEROUTE request, the motivation being that there needs to be some type of signal to notify the system performing the rerouting of when rerouting is needed.

***Allowable Subject Matter***

9. Claims 2-4, 10, 13, 15-18, 20-27, and 37-43 are allowed.

***Conclusion***

10. Applicant's arguments with respect to claim 1 has been considered but is moot in view of the new ground(s) of rejection.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2663

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine Ng whose telephone number is (571) 272-3124. The examiner can normally be reached on M-F; 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. Ng  
December 8, 2004



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